



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure No.: PPD 4.6.205	Subject: CONDITIONAL DISCHARGE FROM SUPERVISION/EARLY TERMINATION OF DEFERRED AND SUSPENDED SENTENCES	
Reference: 46-18-208, MCA; 46-23-1011, MCA; 46-23-1020, MCA; 46-23-1021, MCA; ARM 20.25.704		Page 1 of 7
Effective Date: 10/13/17		Revised:
Signature / Title: /s/ Jennie Hansen, Acting Probation and Parole Division Administrator		

I. PURPOSE:

Probation & Parole Officers will follow established procedures for requesting a conditional discharge from supervision for probationers and parolees and early terminations of deferred and suspended sentences.

II. DEFINITIONS:

Conditional Discharge from Supervision – As defined in §46-23-1020, MCA, 1) a discharge from supervision by the Department of Corrections for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the District Court or the Board of Pardons & Parole; and 2) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation.

Early Termination of Deferred or Suspended Sentence – When imposition of a sentence has been deferred or execution of a sentence has been suspended, a petition may be filed with the court to terminate the time remaining on the sentence if certain circumstances are met. §45-18-208, MCA

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

VINE-Victim Information and Notification Everyday – An automated telephone, email, and text notification system that the Department purchases on contract from Appriss, Inc., which provides location and custody status updates about adult offenders under Department supervision.

III. PROCEDURES:

A. CDFS – CONDITIONAL DISCHARGE FROM SUPERVISION

1. An offender granted a CDFS will no longer be under Probation & Parole (P&P) supervision, but will remain under the jurisdiction of the District Court or Board of Pardons and Parole (BOPP) until the date of his/her sentence expiration or termination.
2. A District Court may conditionally discharge a probationer or the BOPP may conditionally discharge a parolee from standard supervision upon recommendation of the supervising P&P Officer if it is determined a conditional discharge is in the best interests of the offender and society and will not present unreasonable risk of danger to the victim(s) of the offense.
 - a. The Court must find all restitution and court-ordered financial obligations have been paid in full.

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- b. The BOPP must consider parole achievement credits of §46-23-1027, MCA.
 - c. A parolee may be ordered by the BOPP to submit written reports to the BOPP once a year that report the parolee's address and any contacts he/she had with law enforcement.
3. For the purpose of this procedure on CDFS, an offender is in compliance with his/her supervision when he/she:
 - a. is demonstrating stability in residence. Housing stability means offender has a permanent residence and is self-sufficient regarding the costs associated with housing with or without public assistance, is not homeless or at risk of homelessness;
 - b. is demonstrating stability in employment or the ability to be financially self-sufficient. Stability in employment means offender is currently employed and has been employed for most of his/her supervision, is in a position or positions which provide adequate income for self-support with or without public assistance, or if not employed, is financially able to support themselves through personal resources or public assistance;
 - c. has successfully completed all court-ordered treatment and programming;
 - d. has maintained an alcohol and drug free period equal to 75% or more of the supervision time required based on risk level;
 - e. have been free of non-compliance violations during the supervision time required based on risk level;
 - f. has been accountable in working towards and meeting goals established in his/her case plan or through supervision with P&P Officer; and
 - g. has paid all restitution and court-ordered financial obligations in full.
4. Supervising P&P Officers will review probationers' files and shall recommend a CDFS when the probationer is in compliance with his/her supervision and:
 - a. a low-risk probationer has served nine (9) months;
 - b. a medium-risk probation has served 12 months;
 - c. a moderate-risk probationer has served 18 months; and
 - d. a high-risk probationer has served 24 months.

(**Note:** The order of the Risk Levels of the copyrighted national risk and needs assessment tool used by the Department are LOW, MODERATE, MEDUIUM, and HIGH rather than the LOW, MEDIUM, MODERATE, and HIGH levels described in §46-23-1011, MCA. The Department's representation on petitions for CDFS as to the order of Risk Levels are based on state law rather than the risk and needs assessment tool.)
5. When a probationer is serving consecutive sentences, the number of months to be served based on risk level is applicable to each consecutive sentence and added together (i.e., low-risk is 9-months and three consecutive sentences = 27 months). Probationer may be recommended for CDFS once the aggregate period is served and he/she is in compliance with his/her supervision. One *Recommendation for Conditional Discharge from Supervision* is completed; however, a *Petition for Conditional Discharge from Supervision* must be submitted for each court case.
6. When a probationer meets the criteria of #4 above, but the probationer's court order states the offender is not eligible for early release, upon an approved recommendation for CDFS, a *Petition for Conditional Discharge from Supervision* will be submitted to the Court for its consideration.
7. A parolee's file will be reviewed by the supervising P&P Officer after the parolee has served one (1) year of active supervision and the Officer may recommend a CDFS unless there is probation time following.

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- a. Officers will consider the parolee's compliance with his/her supervision, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability as defined in #3 above.
- b. If there is probation time following parole:
 - i. one (1) year prior to the parole discharge date, Officer will follow procedures given below to make a recommendation for CDFS, and if approved, recommendation is submitted to the BOPP; and
 - ii. after offender reports for sign-up to probation sentence, Officer will follow procedures given below to make a recommendation for CDFS, and if approved, petition for CDFS is submitted to the Court.

8. Sexual and Violent Offenders:

- a. Shall not be given a CDFS without the approval of the Deputy Chief (DC).
- b. Out-of-state sexual/violent offenders will also be reviewed by the Compact Administrator (CA) when applying for a CDFS.
- c. A sexual or violent offender on lifetime supervision is not eligible for CDFS.

9. Revocation of CDFS:

- a. A CDFS granted by the District Court may be revoked by the court if, within the time remaining on the sentence that was conditionally discharged, the offender:
 - i. is charged with a felony offense;
 - ii. is charged with a misdemeanor offense for which the offender could be sentenced to incarceration for a period of more than six (6) months; or
 - iii. violates any court-ordered condition.
- b. A parolee granted a CDFS by the BOPP may be returned to active supervision; have the conditions of the CDFS amended; or have his/her parole revoked if, within the time remaining on the sentence that was conditionally discharged, the BOPP determines it to be in the best interest of society and the parolee:
 - i. is charged with a felony offense;
 - ii. is charged with a misdemeanor offense for which the offender could be sentenced to incarceration for a period of more than six (6) months; or
 - iii. fails to annually report his/her address and law enforcement contacts to the BOPP.
- c. Notifications made to P&P regarding any alleged violation by a CDFS offender being charged with one of the above-listed offenses will be forwarded as follows:
 - i. to the county attorney of record for probationer;
 - ii. to the BOPP for parolee.

10. CDFS Procedures and Responsibility:

- a. *PPD 4.6.205(A) Recommendation for Conditional Discharge from Supervision* is completed and submitted to supervisor, or to the Compact Administrator (CA) for interstate cases, for review of all circumstances and approval. The *Recommendation* will contain the following:
 - i. information on the instant offense and criminal history;
 - ii. offender's employment history while under supervision;
 - iii. information regarding the offender's general attitude;
 - iv. supervision history including length of supervision period and the offender's involvement in treatment;

P&P Officer
DC/POII or CA

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- v. verification of compliance with Department, court-ordered, and/or BOPP conditions;
 - vi. payment of restitution, fees, and fines;
 - vii. offender's risk assessment; and
 - viii. victim input information.
- b. Notification to registered person(s) in VINE is made and documented at least 10 days prior to filing the *Recommendation* with the BOPP or *PPD 4.6.205(B) Petition for Conditional Discharge from Supervision* with the Court, and the following information is provided:

 - i. change in location and/or custody status;
 - ii. date of conditional discharge from supervision;
 - iii. community in which the offender will reside;
 - iv. offender will be under the jurisdiction of the court or BOPP; and
 - v. victim has opportunity to respond with written or oral input. Provide the name of the P&P Officer to whom the victim should respond, including Officer's address and phone number.

P&P Officer
- c. Upon approval of *PPD 4.6.205(A) Recommendation for Conditional Discharge from Supervision*, Officer meets with offender:

 - i. reviews circumstances that may result in revocation of CDFS (see #9 above);
 - ii. reminds offender that his/her sentence has not yet expired and therefore, his/her right to possess a firearm is not possible until the sentence expires or the court terminates the sentence; offender should contact ATF prior to possessing firearms once sentence is expired/terminated; and
 - iii. advise probation offender of early termination procedures.

P&P Officer/Offender
- d. Officer completes the following:

 - i. **Parole Cases:** The approved *Recommendation* is forwarded to the BOPP for consideration with notice to the County Attorney and offender. Any written victim input received is attached. The BOPP will prepare an order for distribution upon CDFS approval.
 - ii. **Probation Cases:** *PPD 4.6.205(B) Petition for Conditional Discharge from Supervision* is completed and presented with the *PPD 4.6.205(C) Order for Conditional Discharge from Supervision* to the court with notice to the County Attorney and offender.
 - 1) *Petition* must be printed single-sided and not stapled together.
 - 2) If there are attachments, it is noted on the *Petition*:
 - a) any written victim input received;
 - b) the approved *Recommendation* when Officer feels the information should be provided to the Court; and/or

P&P Officer and BOPP

P&P Officer and Court

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- c) a letter provided when the Officer feels one is necessary.
 - 3) If the judge approves the CDFS, the *Order* is completed and returned to the P&P Officer.
- iii. **Parole Case with Probation time to follow:**
 - 1) One (1) year prior to parole discharge date, the approved *Recommendation* is forwarded to the BOPP for consideration with notice to the County Attorney and offender. Any written victim input received is attached. If approved, the BOPP will prepare an order for distribution. P&P Officer and BOPP
 - 2) Chronological entry is made in offender's OMIS file to record date offender is to report for probation sentence. P&P Officer
 - 3) Upon offender reporting for sign-up to probation sentence, *PPD 4.6.205(B) Petition for Conditional Discharge from Supervision* is completed and presented with the *PPD 4.6.205(C) Order for Conditional Discharge from Supervision* to the court with notice to the County Attorney and offender. P&P Officer and Court
 - a) *Petition* must be printed single-sided and not stapled together.
 - b) If there are attachments, it is noted on the *Petition*:
 - i) any written victim input received;
 - ii) the *Recommendation* if Officer feels the information should be provided to the Court; and/or
 - iii) a letter provided when the Officer feels one is necessary.
 - c) If the judge approves the CDFS, the *Order* is completed and returned to the P&P Officer.
- e. Upon notification to the Officer that a CDFS is granted, he/she will complete *PPD 4.6.205(D) Conditional Discharge Letter* and provide original to offender and a copy placed in offender's file. P&P Officer
- f. Completes OMIS termination moves. Date entered should be date *PPD 4.6.205(D) Conditional Discharge Letter* is completed. If significant time passed between the CDFS being granted and *Letter* being completed, a chronological note will be made explaining why the OMIS termination date is different than the date the CDFS was granted. A change in the offender's OMIS Location and Status will initiate VINE notification. P&P Officer
 - i. Correctional Status showing release to court or BOPP jurisdiction;
 - ii. Location (end date); and
 - iii. Officer (end date).
- g. The probation offender's field file is returned to county of commitment and placed in CDFS files until date of offender's sentence expiration/termination. Files are then placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*. P&P Officer

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- h. The parole offender's field file is returned to the BOPP. Upon expiration of offender's sentence, BOPP will send file to county of commitment. File is then placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*. P&P Officer and BOPP

B. EARLY TERMINATION OF A DEFERRED OR SUSPENDED SENTENCE

1. Pursuant to §46-18-208, MCA, when imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor, offender, or supervising P&P Officer may file a petition to terminate the time remaining on the sentence if:
 - a. Deferred Sentences: The offender has served two (2) years or one-half of the deferred sentence, whichever is less, and has demonstrated compliance with supervision requirements by completing all court-ordered conditions including treatment mandates, restitution, court-ordered fines, etc.
 - b. Suspended Sentences: The offender has served three (3) years or two-thirds of the time suspended, whichever is less, AND has been granted a CDFS and has demonstrated compliance with the CDFS for a minimum of 12 months.
2. When a probationer meets the criteria of #1 above, but the probationer's court order states the offender is not eligible for early release, a petition for early termination will not be submitted to the Court by the supervising P&P Officer.
3. If the supervising P&P Officer is initiating the early termination, he/she will look in VINE for registered person(s) and make notification at least 10 days prior to filing the *PPD 4.6.205(E) Petition for Early Termination* providing the following information. Notification is documented:
 - a. change in custody status;
 - b. date of early termination;
 - c. community in which the offender will reside; and
 - d. victim has opportunity to respond with written or oral input. Provide the name of the P&P Officer to whom the victim should respond, including Officer's address and phone number.
3. The supervising P&P Officer may initiate or assist an offender has met the criteria to petition the court for termination of a deferred or suspended sentence. Officer will meet with offender to complete and review:
 - a. Section II of *PPD 1.5.503(B) Firearm Regulations Form* unless the offender is an out-of-state offender. Offender should contact ATF prior to possessing firearms. A copy of the form is provided to offender and original is placed in offender's file; and
 - b. Section II of *PPD 1.5.1000(A) Duty to Register Letter* if applicable for a sexual or violent offender. A copy of the form is provided to offender and original is placed in offender's file.
4. *PPD 4.6.205(E) Petition for Early Termination of Suspended/Deferred Sentence* is completed, and with *PPD 4.6.205(F) Order for Early Termination* and any written victim input received, is submitted to the court with notice to the County Attorney.
5. The court may hold a hearing on the petition on its own motion or on request of the prosecutor or the offender. If the court requires a hearing on the petition, the court may grant the petition if it finds that termination of the remainder of the sentence:
 - a. is in the best interests of society and the offender;

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- b. termination will not present an unreasonable risk of danger to the victim of the offense; and
 - c. the offender has paid all restitution and court-ordered financial obligations in full.
6. Unless the court requires a hearing, the remaining portion of the deferred or suspended sentence is terminated 30 days after the date the petition is filed. Do not count the date of filing the *Petition for Early Termination*, but do count the next 30 consecutive days, including weekends and legal holidays. If the 30th day falls on a Saturday, Sunday, or legal holiday, it will be extended to the next day that is not a Saturday, Sunday, or legal holiday.
 7. **Offenders on CDFS:** If Officer receives notification that early termination was granted for a CDFS offender who was released to the court's jurisdiction, he/she will make an OMIS chronological entry noting early termination. If an *Order for Early Termination* is returned to the Officer, he/she will have a copy placed in offender's field file, and original returned to offender. The field file will be placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*.
 8. On the 30th day, Officer will verify with the court that there is no hearing. If there is no hearing, or when Officer receives notification that early termination was granted for an offender, Officer will complete OMIS termination moves using the date of day 30 and there was no hearing, or the date the Officer received notification that early termination was granted, even if significant time has passed since the termination was granted. If significant time has passed, a chronological note will be made to explain why the OMIS termination date differs from the date early termination was granted:
 - a. Correctional Status;
 - b. Location (end date); and
 - c. Officer (end date).
 9. A change in the offender's OMIS Location and Status will initiate VINE notification.
 10. The offender's field file will be placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*.

IV. CLOSING:

Questions concerning this procedure shall be directed to the DC or designee.

V. FORMS:

PPD 4.6.205 (A)	Recommendation for Conditional Discharge from Supervision
PPD 4.6.205 (B)	Petition for Conditional Discharge from Supervision
PPD 4.6.205 (C)	Order for Conditional Discharge from Supervision
PPD 4.6.205 (D)	Conditional Discharge Letter
PPD 4.6.205 (E)	Petition for Early Termination of Deferred or Suspended Sentence
PPD 4.6.205 (F)	Order for Early Termination
PPD 1.5.503 (B)	Firearm Regulations Form
PPD 1.5.1000 (A)	Duty to Register Letter